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October 22, 2020

VIA ELECTRONIC CASE FILING

The Honorable Jesse M. Furman
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

***Re: Marbury v. Pace University,
Civil Action No.: 20-cv-3210 (JMF)***

Dear Judge Furman:

We represent Defendant Pace University (“PACE”) in the above-captioned action. Pursuant to Rule 2.C of your Honor’s Individual Rules and Practices, PACE writes this letter to respectfully request an informal conference relating to a discovery dispute. Before submitting this letter, we note that the respective counsel for the Parties telephonically met and conferred earlier today, October 22, 2020, and they were unable to reach a resolution. Specifically, PACE requested the Plaintiff’s counsel’s consent (unsuccessfully) to a postponement of discovery in consideration of PACE’s intent to file a Rule 12(c) motion to dismiss on or before Friday, October 30, 2020. PACE seeks an informal conference with the Court for purposes of obtaining a stay of discovery pending the Court’s resolution of its Rule 12(c) motion.

Plaintiff filed her putative class action Complaint in this action on April 23, 2020 (Docket No. 1), which after service PACE answered on August 3, 2020. Docket No. 24. Plaintiff amended her complaint on August 24, 2020 (Docket No. 28), which PACE answered on September 8, 2020 (Docket No. 29). In the interim, Plaintiff served discovery requests by mail on September 14, 2020. Thereafter, PACE sought Plaintiff’s consent to additional time to respond to the discovery. In the Parties’ counsel’s telephone call earlier today, PACE advised Plaintiff’s counsel that it intends to move to dismiss the Complaint pursuant to Fed.R.Civ.P. 12(c) on or before October 30, 2020. PACE also advised Plaintiff’s counsel that it will be requesting that the Court stay all discovery during the pendency of its Rule 12(c) motion.

A discovery stay is reasonable under the circumstances because the forthcoming motion to dismiss may eliminate the need for discovery or limit the scope of Plaintiff’s legal claims and/or the proposed class. We also note that there are several pending class action tuition refund actions before this Court (and others) where discovery stays have been granted pending the adjudication of motions to dismiss. *See, e.g., In Re Columbia University Tuition Refund Action*, Civil Action No. 20-cv-3208 (JMF); *Boykin-Smith v. New York Institute of Technology*, Civil Action No. 20-cv-4108 (JMA).

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Thank you for your consideration.

Respectfully Submitted,

BOND, SCHOENECK & KING, PLLC



The image shows a handwritten signature in black ink. The signature consists of several loops and curves, starting with a long horizontal stroke on the left, followed by a large loop that overlaps itself, and ends with a flourish on the right. Below the signature, the name "Gregory B. Reilly" is written in a standard black font.

Gregory B. Reilly

cc: Roy T. Willey, IV, Esq. (By ECF)